

RECEIVED
CENTRAL FAX CENTER

JUL 06 2010

Docket No.: 181-030B

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
PATENT OPERATION

In re Application of:

Peter Dronzek

Group Art Unit: 1791

Serial No.: 10/674,116

Examiner: John Goff

Filed: September 29, 2003

For: TECHNIQUES FOR LABELING PLASTIC, GLASS OR
METAL CONTAINERS OR SURFACES WITH POLYMERIC LABELS

New York, NY 10036
July 6, 2010

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF

Sir:

This Reply Brief is being filed in response to the Examiner's Answer that was mailed May 3, 2010.

The Examiner's Answer cites for the first time, col. 20 line 27 to col. 22, line 27 of the Malholtra patent as suggesting a "wide range of adhesives including those that are water based". This argument is not supported by the text of the cited reference. The adhesives that are suggested by

Malholtra are all pressure sensitive adhesives that require a release liner as expressly taught by Malholtra. Not one of the adhesives mentioned by Malholtra can be used to apply any label in a cut and stack machine as required by claims 25, 47 and 50.

At col. 22, line 27, which is the part of Malholtra which immediately follows the section of Malholtra relied upon by the Examiner, the patentee explicitly refers to the peelable release paper that covers the adhesive side of the paper because the adhesive is pressure sensitive. This is also clear from the label application process step that Malholtra set forth at col. 5, lines 51-55 which explicitly requires a peelable release paper covering the adhesive and a step for the removal of the release paper. The only reasonable interpretation of Malholtra is that the labels must have a release liner to prevent the labels from being stuck to one another if they were stacked in cut and stack labeling machine.

The Examiner has relied upon the Applicant's admission that water based adhesives have been used on paper labels but he has not cited any prior art that shows that anyone ever applied a polymeric label to a glass, metal or plastic container using a cut and stack labeling machine.

Claims 25, 47 and 50 all specify a drying or curing step that is carried out after the label is applied to a container. The Malholtra patent does not carry out any drying step as the pressure sensitive label is dried when coated on the label stock (col. 25, line 50) and not after it is laminated onto a book. It is also important that Malholtra does not deal with a glass, metal or plastic substrate which have different surface

properties as compared to the book spines of Malholtra.

The Examiner has argued in the Examiner's Answer that Ito discloses a label material used as a substitute for paper and it would be obvious to one skilled in the art to look to paper based label techniques. At col. 1, line 13, Ito points out that synthetic paper has excellent properties as compared with paper composed of natural materials. The properties of synthetic paper, that Ito mentions at col.1, lines 16-21 as advantages include "water resistance" as well dimensional stability to water moisture absorption, surface stability, glossiness and definition for printing. This is the property that results in "swimming" that the applicant disclosed in the present specification at page 6, lines 11-36 as making plawstSiuc films unacceptable for use in cut and stack labeling machines. Thus a skilled artisan reading Ito would not be directed to use water based adhesive techniques that were used with natural paper labels because Ito states that the synthetic paper labels are resistant to water. The term "synthetic paper" does not mean a material that is identical with natural paper in its composition and properties but only differs from the manner in which the components are obtained such as the products known as natural rubber and synthetic rubber. Synthetic paper is a plastic film made from polyethylene, polypropylene or polyester.

At col. 1, line 67 to col. 2, line 1, Ito discloses providing an adhesive layer on the surface of a voided polyester film that has been provided with a layer of adhesive on the surface and which cracks after "peeling off". The term "peeling off" does not refer to the peeling off of a label as labels are not peeled off and can only refer to the

RECEIVED
CENTRAL FAX CENTER

JUL 06 2010

peeling off of a release liner and is suggestive of a pressure sensitive adhesive. In any event, Ito does not explicitly disclose an adhesive system and distinguishes between natural and synthetic paper.

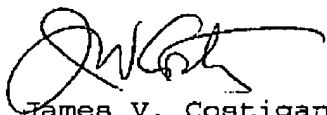
There is no mention of cut and stack labeling in Ito or Malholtra in connection with polymeric films.

In the Examiner's Answer, the Examiner has urged for the first time at page 21, lines 21-22, that Goebel teaches a "stack of labels". It is believed that Goebel does not teach or disclose any stack of labels as the term "stack of labels" as such or in any other form is not found in Goebel.

The Examiner's Answer has not rebutted any of the arguments that have been made based on the Fernandez Declaration which concluded that the Goebel labels could not be stacked because they remained tacky. A cut and stack labeling machine will not operate if the labels stick together and cannot be removed from the label magazine.

For these reasons and the reasons set forth in the Main Brief, the rejections of record should be reversed and patent protection allowed to an advance in the art.

Respectfully submitted,



James V. Costigan
Reg. No. 25,669

Hedman & Costigan, P.C.
1230 Avenue of the Americas 7th Floor
New York, NY 10020-1512
(212) 302-8989